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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,787	09/05/2003	Denis Alan De Shon		8964

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EXAMINER
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LAVARIAS, ARNEL C

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/656,787	<b>Applicant(s)</b> DE SHON, DENIS ALAN	
	<b>Examiner</b> Arnel C. Lavarias	<b>Art Unit</b> 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. As previously noted, the submissions filed 3/7/05, 2/7/05, 11/19/04, 8/31/04, and 7/20/04 were found non-compliant, and thus have not been entered into the record in their entirety.
2. The amendments to the specification and abstract of the disclosure in the submission dated 6/6/05 are acknowledged and accepted.
3. The amendments to Claim 1 in the submission dated 6/6/05 are acknowledged and accepted.

### ***Drawings***

4. The drawings were received on 6/6/05. These drawings are objected to for the following reason(s) as set forth below.
5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:  
Figure 1- Reference numeral 4.  
  
Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either

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“Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Response to Arguments***

6. It is noted that Applicant did not provide any arguments or remarks in the submission dated 6/6/05 with regard to the rejections of Claim 1 in Sections 8 and 10 of the Office Action dated 8/19/04. Further, though not entered into the record, Applicant's arguments filed 8/31/04 have been fully considered but they are not persuasive.
7. Applicant's submission filed 8/31/04 fails to provide any arguments or remarks with regard to the rejection of Claim 1 under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, in Section 8 of the Office Action dated 8/19/04.
8. In remarks and arguments filed 8/31/04, Applicant argues that the combined teachings of Doty, III et al. and Bradshaw fail to teach or reasonably suggest a hologram projector, as recited in newly amended Claim 1. The Examiner respectfully disagrees. In response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In addition, the features upon which Applicant relies (i.e., the projection of holographic images in the air) are not recited in the rejected claim(s). Although the claims are interpreted in light of

the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

9. Claim 1 is rejected as follows.

### ***Specification***

10. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to *a single paragraph on a separate sheet within the range of 50 to 150 words*. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

11. The abstract of the disclosure is objected to because of the following informalities:

The Abstract has more than one paragraph.

Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

12. Claim 1 is objected to because of the following informalities:

Regarding Claim 1, line 3, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

14. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation of 'A hologram projector... which produces holograms...' in lines 1-2. It is noted that a hologram is itself the interference patterns that are recorded onto a holographic recording medium, and not the images generated or projected from the holographic recording medium. Thus, Claim 1 recites a holographic projector that produces a record of the interference patterns incident onto the recording medium. However, in reviewing the specification of the disclosure, it is unclear whether the hologram projector is producing the hologram itself, or a visual, three-dimensional image generated from the hologram when the hologram is properly illuminated. The specification of the disclosure mentions both the hologram (See for example Page 1 of the specification of the disclosure) and the images produced by the hologram (See for example Page 2 of the specification of the disclosure) being produced by the hologram projector.

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 1, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Doty, III et al. (U.S. Patent No. 6557482), of record, in view of Bradshaw (U.S. Patent No. 4831765), of record.

Doty, III et al. discloses a hologram projector (See 10 in Figure 1) disposed at airport runways or fisheries ponds which produces holograms (See 26, 46 in Figures 1, 5; col. 4, line 65-col. 5, line 6) to control bird activity, which holograms are shaped to keep birds away from the airport site and eliminate predation on ponds. Doty, III et al. lacks the holograms being shaped as a grid, a target species or a raptor such as a hawk. However, Bradshaw teaches the general idea that holograms may be made into the shape of an animal that is useful for scaring or repelling other animals. For example, Bradshaw discloses the example of a holographic fishing lure or decoy (See Figures 1-8; Abstract) for luring, decoying or repelling other fish or game (See Abstract; col. 2, lines 24-29). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the holograms be shaped as a grid, a target species or a raptor such as a hawk, as generally taught by Bradshaw, in the hologram projector of Doty, III et al., for the purpose of more effectively repelling specific types of animals, birds and game.

***Conclusion***

17. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450.

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
19. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the



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advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnel C. Lavarias whose telephone number is 571-272-2315. The examiner can normally be reached on M-F 9:30 AM - 6 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arnel C. Lavarias  
8/9/05



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